

§ 1710.13

board of directors to amend the bylaws and no committee shall operate to relieve the board of directors or any board member of a responsibility imposed by applicable law, rule, or regulation.

(b) *Frequency of meetings.* A committee of the board of directors of an Enterprise shall meet with sufficient frequency to carry out its obligations and duties under applicable laws, rules, regulations, and guidelines.

(c) *Required committees.* An Enterprise shall provide for the establishment of, however styled, the following committees of the board of directors, which committees shall be in compliance with the charter, independence, composition, expertise, duties, responsibilities, and other requirements set forth under section 301 of the Sarbanes-Oxley Act of 2002, Pub. L. 107-204 (Jul. 30, 2002) (SOA), as amended from time to time, with respect to the audit committee, and under rules issued by the NYSE, as amended from time to time—

- (1) Audit committee;
- (2) Compensation committee; and
- (3) Nominating/corporate governance committee.

[67 FR 38370, June 4, 2002. Redesignated and amended at 70 FR 17310, 17311, Apr. 6, 2005]

§ 1710.13 Compensation of board members, executive officers, and employees.

(a) *General.* Compensation of board members, executive officers, and employees of an Enterprise shall not be in excess of that which is reasonable and appropriate, shall be commensurate with the duties and responsibilities of such persons, shall be consistent with the long-term goals of the Enterprise, shall not focus solely on earnings performance, but shall take into account risk management, operational stability and legal and regulatory compliance as well, and shall be undertaken in a manner that complies with applicable laws, rules, and regulations.

(b) *Reimbursement.* If an Enterprise is required to prepare an accounting restatement due to the material non-compliance of the Enterprise, as a result of misconduct, with any financial reporting requirement under the securities laws, the chief executive officer and chief financial officer of the Enter-

12 CFR Ch. XVII (1-1-08 Edition)

prise shall reimburse the Enterprise as provided under section 304 of the SOA, as amended from time to time. This provision does not otherwise limit the authority of OFHEO to employ remedies available to it under its enforcement authorities.

[67 FR 38370, June 4, 2002. Redesignated and amended at 70 FR 17310, 17311, Apr. 6, 2005]

§ 1710.14 Code of conduct and ethics.

(a) *General.* An Enterprise shall establish and administer a written code of conduct and ethics that is reasonably designed to assure the ability of board members, executive officers, and employees of the Enterprise to discharge their duties and responsibilities, on behalf of the Enterprise, in an objective and impartial manner, and that includes standards required under section 406 of the SOA, as amended from time to time, and other applicable laws, rules, and regulations.

(b) *Review.* Not less than once every three years, an Enterprise shall review the adequacy of its code of conduct and ethics for consistency with practices appropriate to the Enterprise and make any appropriate revisions to such code.

[70 FR 17311, Apr. 6, 2005]

§ 1710.15 Conduct and responsibilities of board of directors.

(a) *Purpose.* The purpose of this section, and of this subpart, is to set forth minimum standards of the conduct and responsibilities of the board of directors in furtherance of the safe and sound operations of each Enterprise. The provisions of this section neither provide shareholders of an Enterprise with additional rights nor impose liability on any board member under State law.

(b) *Conduct and responsibilities.* The board of directors of an Enterprise is responsible for directing the conduct and affairs of the Enterprise in furtherance of the safe and sound operation of the Enterprise and shall remain reasonably informed of the condition, activities, and operations of the Enterprise. The responsibilities of the board of directors include having in place

Federal Housing Enterprise Oversight

§ 1710.19

adequate policies and procedures to assure its oversight of, among other matters, the following:

(1) Corporate strategy, major plans of action, risk policy, programs for legal and regulatory compliance and corporate performance, including but not limited to prudent plans for growth and allocation of adequate resources to manage operations risk;

(2) Hiring and retention of qualified senior executive officers and succession planning for such senior executive officers;

(3) Compensation programs of the Enterprise;

(4) Integrity of accounting and financial reporting systems of the Enterprise, including independent audits and systems of internal control;

(5) Process and adequacy of reporting, disclosures, and communications to shareholders, investors, and potential investors;

(6) Extensions of credit to board members and executive officers; and

(7) Responsiveness of executive officers in providing accurate and timely reports to Federal regulators and in addressing the supervisory concerns of Federal regulators in a timely and appropriate manner.

(c) *Guidance.* The board of directors should refer to the body of law elected under § 1710.10 and to publications and other pronouncements of OFHEO for additional guidance on conduct and responsibilities of the board of directors.

[67 FR 38370, June 4, 2002, as amended at 70 FR 17311, Apr. 6, 2005]

§ 1710.16 Prohibition of extensions of credit to board members and executive officers.

An Enterprise may not directly or indirectly, including through any subsidiary, extend or maintain credit, arrange for the extension of credit, or renew an extension of credit, in the form of a personal loan to or for any board member or executive officer of the Enterprise as provided by section 402 of the SOA, as amended from time to time.

[70 FR 17311, Apr. 6, 2005]

§ 1710.17 Certification of disclosures by chief executive officer and chief financial officer.

The chief executive officer and the chief financial officer of an Enterprise shall review each quarterly report and annual report issued by the Enterprise and such reports shall include certifications by such officers as required by section 302 of the SOA, as amended from time to time.

[70 FR 17311, Apr. 6, 2005]

§ 1710.18 Change of audit partner.

An Enterprise may not accept audit services from an external auditing firm if the lead or coordinating audit partner who has primary responsibility for the external audit of the Enterprise, or the external audit partner who has responsibility for reviewing the external audit has performed audit services for the Enterprise in each of the five previous fiscal years.

[70 FR 17312, Apr. 6, 2005]

§ 1710.19 Compliance and risk management programs; compliance with other laws.

(a) *Compliance program.* (1) An Enterprise shall establish and maintain a compliance program that is reasonably designed to assure that the Enterprise complies with applicable laws, rules, regulations, and internal controls.

(2) The compliance program shall be headed by a compliance officer, however styled, who reports directly to the chief executive officer of the Enterprise. The compliance officer shall report regularly to the board of directors or an appropriate committee of the board of directors on compliance with and the adequacy of current compliance policies and procedures of the Enterprise, and shall recommend any adjustments to such policies and procedures that he or she considers necessary and appropriate.

(b) *Risk management program.* (1) An Enterprise shall establish and maintain a risk management program that is reasonably designed to manage the risks of the operations of the Enterprise.

(2) The risk management program shall be headed by a risk management